

§ 1605.22 Claims for correction of Board or TSP record keeper errors; time limitations.

(a) *Filing claims.* Claims for correction of Board or TSP record keeper errors under this subpart may be submitted initially either to the TSP record keeper or the Board. The claim must be in writing and may be from the affected participant or beneficiary.

(b) *Board's or TSP record keeper's discovery of error.* (1) Upon discovery of an error made within the past six months involving a receipt or a disbursement, the Board or TSP record keeper must promptly correct the error on its own initiative. If the error was made more than six months before its discovery, the Board or the TSP record keeper may exercise sound discretion in deciding whether to correct the error, but, in any event, must act promptly in doing so.

(2) For errors concerning contribution allocations or interfund transfers, the Board or the TSP record keeper must promptly correct the error if it is discovered before 30 days after the issuance of the earlier of the most recent TSP participant (or loan) statement or transaction confirmation that reflected the error. If it is discovered after that time, the Board or TSP record keeper may use its sound discretion in deciding whether to correct it, but, in any event, must act promptly in doing so.

(c) *Participant's or beneficiary's discovery of error.* (1) If the Board or TSP record keeper fails to discover an error of which a participant or beneficiary has knowledge involving a receipt or a disbursement, the participant or beneficiary may file a claim for correction of the error with the Board or the TSP record keeper without time limit. The Board or the TSP record keeper must promptly correct any such error for which the participant or beneficiary filed a claim within six months of its occurrence; the correction of any such error for which the participant or beneficiary filed a claim after that time is in the sound discretion of the Board or TSP record keeper.

(2) For errors involving contribution allocations or interfund transfers of which a participant or beneficiary has knowledge, he or she may file a claim

for correction with the Board or TSP record keeper no later than 30 days after receipt of the earlier of a TSP participant (or loan) statement or transaction confirmation reflecting the error. The Board or TSP record keeper must promptly correct such errors.

(3) If a participant or beneficiary fails to file a claim for correction of contribution allocations or interfund transfers in a timely manner, the Board or TSP record keeper may nevertheless, in its sound discretion, correct any such error that is brought to its attention.

(d) *Processing claims.* (1) If the initial claim is submitted to the TSP record keeper, the TSP record keeper may either respond directly to the claimant, or may forward the claim to the Board for response. If the TSP record keeper responds to a claim, and all or any part of the claim is denied, the claimant may request review by the Board within 90 days of the date of the record keeper's response.

(2) If the Board denies all or any part of a claim (whether upon review of a TSP record keeper denial or upon an initial review by the Board), the claimant will be deemed to have exhausted his or her administrative remedy and may file suit under 5 U.S.C. 8477. If the claimant does not submit a request to the Board for review of a claim denial by the TSP record keeper within the 90 days permitted under paragraph (d)(1) of this section, the claimant will be deemed to have accepted the TSP record keeper's decision.

Subpart D—Miscellaneous Provisions

§ 1605.31 Contributions missed as a result of military service.

(a) *Applicability.* This section applies to employees who meet the conditions specified at § 1620.40 of this chapter and who are eligible to receive or to make up contributions missed as a result of military service.

(1) *Missed employee contributions.* Eligibility for making up missed employee contributions will be determined in accordance with the rules specified at 5 CFR part 1620, subpart E. Missed employee contributions will be

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made up in accordance with the rules specified in § 1605.20(c).

(2) *Missed employer contributions.* Missed agency automatic (1%) contributions will be determined in accordance with the rules specified at 5 CFR part 1620, subpart E.

(i) If an employee makes up missed employee contributions, attributable agency matching contributions must be made accordingly.

(ii) The employing agency must submit lost earnings records for missed employer contributions pursuant to 5 CFR part 1606. Lost earnings may be calculated using the rates of return based on the contribution allocation(s) on file for the participant during the period of military service or using the rates of return for the G Fund; the participant must make this election at the same time his or her makeup schedule is established pursuant to § 1605.11(c).

(b) [Reserved]

PART 1606—LOST EARNINGS ATTRIBUTABLE TO EMPLOYING AGENCY ERRORS

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AUTHORITY: 5 U.S.C. 8432a, 8474(b)(3), and (c)(1). Section 1606.5 also issued under Title II, Pub. L. 106-265, 114 Stat. 770.

SOURCE: 56 FR 606, Jan. 7, 1991, unless otherwise noted.

Subpart A—General Provisions

§ 1606.1 Purpose.

The purpose of this part 1606 is to implement section 2 of the Thrift Savings Plan Technical Amendments Act of 1990 (TSPTAA), Public Law 101-335, enacted July 17, 1990. The TSPTAA amended chapter 84 of title 5, United States Code by inserting section 8432a, authorizing the Executive Director to prescribe regulations pursuant to which employing agencies shall be required to pay to the Thrift Savings Fund amounts representing lost earnings caused by employing agency errors relating to the Thrift Savings Plan (TSP) described in subchapter III of chapter 84.

§ 1606.2 Definitions.

As used in this part:

Agency automatic (1%) contributions means any contributions made under 5 U.S.C. 8432(c)(1) and (c)(3).

Agency matching contributions means any contributions made under 5 U.S.C. 8432(c)(2).

“As of” date means the date on which TSP contributions or other transactions should have been made.

Board error means any act or omission by the Board that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

Employee contributions means any contributions to the Thrift Savings Plan made under 5 U.S.C. 8351(a), 8432(a), or 8440a through 8440e.

Employer contributions means agency automatic (1%) contributions under 5